

REMARKS

Claims 1-29 are currently pending in the application. By this amendment, claims 1-3, 5, 8, 11, 13, 18, 19, 21 and 26 are amended for the Examiner's consideration. The above amendments do not add new matter to the application and are fully supported by the specification. For example, support for the amendments is provided at Figures 1 and 2, and at pages 6-8 of the specification. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Allowed Claims

Applicants appreciate the indication that claim 11 contains allowable subject matter. Claim 11 is amended into independent format to include the subject matter of base claim 1 and intervening claim 10. Applicants submit that claim 11 is now in condition for allowance. Applicants also submit that all of the claims are in condition for allowance for the following reasons.

35 U.S.C. §112 Rejection

Claims 2, 8, 13-15 and 18-29 were rejected under 35 U.S.C. §112, 2nd paragraph. This rejection is respectfully traversed.

As to the rejection of claims 2, 19 and 21, these claims have been amended to change "cold accumulator" to "cold medium". This should clarify the claim language.

As to the rejection of claims 13 and 18, Applicants have amended these claims to recite that the heating element is provided, at a lower end thereof, with a device by which it can be secured pivotably and displaceably on a holder. As clearly shown in FIG. 2, for example, the lower end of the heating element is attached to a device which, in turn, is pivotably and displaceably connected to a holder (e.g., U shaped holder 4).

As to the rejection of claims 8, 19 and 26, Applicants have amended these claims in an attempt to clarify the relationship between the central body and the element. In particular, these claims have been amended to recite that the cooling element runs substantially parallel in relation

Appln. No.: 10/529,387

with or to a longitudinal axis of the central body. Applicants note that this relationship is clearly shown in FIG. 2, for example.

As to the rejection of claim 19, Applicants have amended this claim to provide proper antecedent basis. More specifically, claim 19 is amended to recite "the cold medium." The "cold medium" finds support in claim 19.

As to the rejection of claim 26, Applicants have amended this claim to delete the word "at".

Accordingly, Applicants respectfully request that the rejection over claims 2, 8, 13-15 and 18-29 be withdrawn.

35 U.S.C. §102 Rejection

Claims 1-7, 9, 10 and 12 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 3,339,480 to Raman et al. Claim 18 was rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 4,663,517 to Huff. Claims 19-27 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 4,190,100 to Wallace. These rejections are respectfully traversed.

According to MPEP §2131,

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Applicants submit that the claims are distinguishable over the above references for the reasons stated below.

Claims 1-7, 9, 10 and 12

Claim 1 recites, in pertinent part:

a central body that supports foodstuffs arranged around the central body, the central body being provided with cooling through at least one delivery channel and at least one return channel in the central body; and
a heating element acting outside of the foodstuffs.

Applicants submit, though, that Raman does not teach these features.

More specifically, Raman teaches a cooking apparatus. The cooking apparatus includes a spit 15 with a plurality of openings 17 appearing on the four walls thereof. (See, col. 2, line 1.). The spit 15 includes a hollow channel 16 such that marinated flavoring can travel from the housing 30, through the hollow channel 16 and through the openings 17 into the food. However, it is clearly seen from all of the figures of Raman, that the spit 15 does not include a delivery channel and a return channel. In fact, the use of a return channel would not even be contemplated or workable in the spit 15 of Raman since the intended function of the apparatus is to marinate the food product through the openings 17 of the spit 15. Said otherwise, as the spit 15 includes openings 17, there can be no return channel since all of the fluid is expected to exit through the openings 17.

Dependent Claims 2-7, 10 and 12

Claims 2-7, 10 and 12 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on claim 1. Also, Applicants submit that these claims also include allowable subject matter on their own merits.

Claims 3 and 5

Claim 3 recites:

The rotating spit as claimed in claim 1, wherein the central body is provided with the delivery channel and return channel through which a cooled medium flows.

Claim 5 recites:

The rotating spit as claimed in claim 1, wherein the one delivery channel and at least one removal channel accommodates a cooled medium.

As discussed above, Raman does not show delivery and return channels. In fact, such channels would never even be contemplated by Raman for the reasons discussed above.

Claim 4

Claim 4 recites:

The rotating spit as claimed in claim 1, wherein the central body is coupled to a heat exchanger.

Applicants submit that Raman does not show this feature. If there is to be any interpretation, Raman shows that the central body is coupled to a housing 30 that includes marinated flavorings. The housing 30 is not a heat exchanger, as it only is designed to house the marinated flavorings. Also, despite the Examiner's comments to the contrary, the housing 30 of Raman does not absorb and emit heat energy.

Claim 7

Claim 7 recites:

The rotating spit as claimed in claim 1, wherein at least one cooling element which is coupled to the central body in a removable manner is arranged at a radial spacing from the central body.

Applicants submit that Raman does not show these features. In Raman, there is a central body (e.g., shaft 30), but there is no cooling element coupled to the central body, much less arranged at a radial spacing from the central body.

Also, the Examiner appears to be equating the housing 30 with the cooling element. First, as discussed above, the housing 30 is merely used to store the marinated flavoring. Second, the housing 30 is not even removable with respect to the spit 15. In fact, it appears to be contemplated that the housing 30 is permanently attached to the spit 15. To fill the housing 30, a screw cap 50 is threaded to the housing 30. Also, neither the housing 30 nor the cap 50 are arranged at a radial spacing from the central body. Instead, the housing 30 and the cap 50 are arranged at an end of the spit. If there is to be any interpretation, this spacing would be in the longitudinal direction. It is certainly not at a radial spacing, which would connote radial about the central body.

Claims 10 and 12

Claim 10 recites:

The rotating spit as claimed in claim 1, wherein the central body is provided with outlet openings which communicate with channels inside the foodstuffs to allow a cooled medium to flow through the foodstuffs.

Claim 12 recites:

The rotating spit as claimed in claim 10, wherein the channels formed inside the foodstuffs are connected to a coolant stream via radially oriented openings in an outer wall of the central body.

Contrary to these claims, Raman does not show outlet openings which communicate with channels. Instead, the spit 15 only includes outlet openings 17. The outlet openings 17 do not communicate with anything other than the food, itself.

Accordingly, Applicants respectfully request that the rejection over claims 1-7, 9, 10 and 12 be withdrawn.

Claim 18

Claim 18 recites, in pertinent part:

a central body that supports foodstuffs arranged around the central body, and
a heating element acting outside of the foodstuffs, the heating element being provided, at a lower end thereof, with a device by which it is secured pivotably and displaceably on a U-shaped holder on one side, with its lower end on an upper branch of the holder, the upper branch of the holder being provided underneath the foodstuffs.

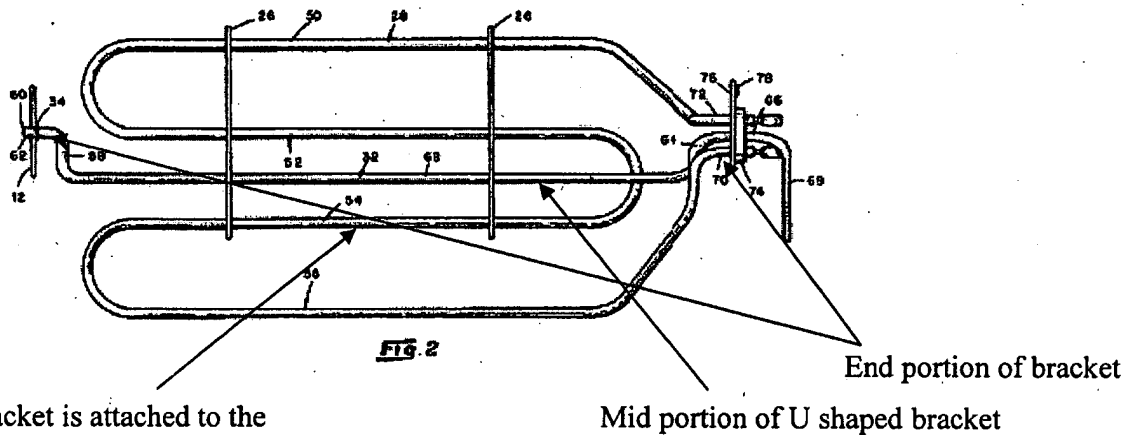
Applicants submit that Huff does not show all of the features of claim 18. Specifically, Huff does not show, for example, a heating element provided, at a lower end, with a device by which it is secured pivotably and displaceably on a U-shaped holder on one side, with its lower

end on an upper branch of the holder and the upper branch of the holder being provided underneath the foodstuffs.

The Examiner is of the opinion that the device is the bracket 26 and that the heating element 28 is pivotably and displaceably secured at a lower end of the U shaped holder 32 by the bracket 26. (See, Response to Arguments on page 5 of the office action.) Applicants disagree that the Huff elements include the same relationships and connections (e.g., pivot and displaceable) as recited in the claimed invention.

As disclosed at col. 3, lines 55-58, the electric heating element 28 is connected and supported by a bracket 26 along a mid portion thereof. The bracket 26, in turn, is spot welded to the U shaped holder 32 along mid portions thereof (not at any end). As the bracket 26 is spot welded to the U shaped holder 32, it is not possible for the bracket 26 to be pivotably and displaceably secured to the U shaped holder 32. (See, e.g., col. 4, lines 47-49 and FIG. 2.) In fact, as the bracket 26 is spot welded to the holder 32, it would seem that the rotation of the holder 32 would result in the same relative movement of both the heating element 28 and the bracket 26.

Even taking a broad interpretation of Huff, Applicants still submit that the heating element 28 is not (i) provided, at a lower end thereof, with a device by which it is (ii) secured pivotably and displaceably on a U-shaped holder on one side, with (iii) its lower end on an upper branch of the holder. Specifically, taking the position that the heating element 28 is attached to the bracket (device) 26, it is clear, as shown in FIG. 2 reproduced below, that the heating element is not provided at a lower end thereof with the bracket 26 (device). Instead, as shown in FIG. 2, the bracket 26 is attached to the heating element 28 along a length (mid portion) portion thereof. Additionally, the bracket 26 is spot welded to the U shaped holder 32 at a mid portion thereof; not at ends thereof. As such, as the bracket 26 is spot welded to the U shaped holder 32, neither the bracket 26 nor the heating element 28 are secured pivotably and displaceably on the U-shaped holder 32. Instead, the spot weld would act to securely fix in a non-moveable manner the bracket 26 to the holder 32.

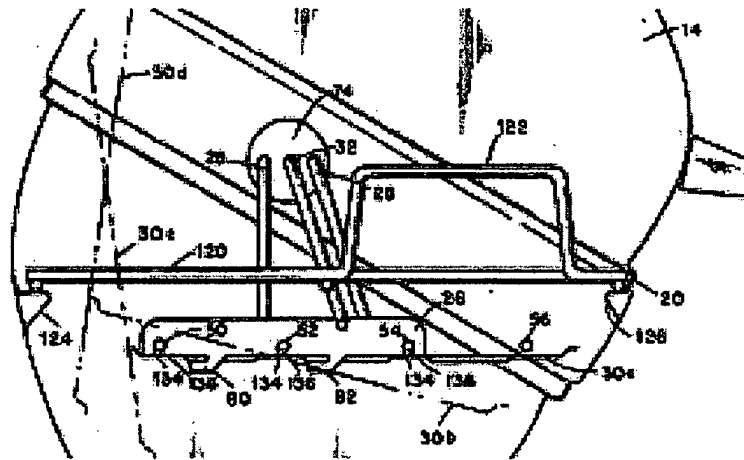
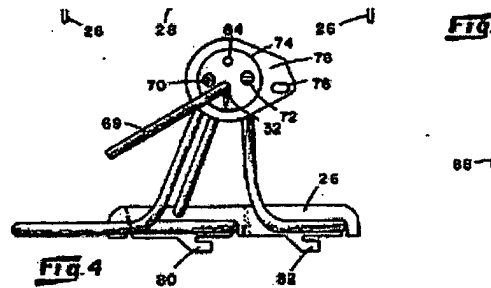


Also, it is disclosed at col. 7, lines 7-15,

The heating element segments 50, 52 and 54 are secured on the support bracket 26 in key-hole shaped channels 134. In order to insert the heating elements 50, 52 and 54 into the channels 134, flanges 136 are bent perpendicularly to allow sufficient room to insert the heating element. Once the elements 50, 52 and 54 are inserted, the flanges 136 are bent back to the position shown in FIG. 7 and they secure the heating elements 50, 52 and 54 within the key-hole shaped channels 134.

There is no disclosure whatsoever, though, which would teach that the heating element 26 is connected to the holder 32 via the bracket 26 in a pivoting and displaceable manner.

Also, Applicants note, referring to FIG. 7 partially reproduced below and FIG. 4, that the heating element is mounted to a bracket 74, and not directly to the holder 32. The bracket 74 allows for rotation of the heating element with the U-bracket (in unison).



More specifically, col. 5, line 1 to col. 6, line 2 describes the mechanism of rotation of the heating element 28 and the holder 32. Applicants note that these passages, though, do not disclose the heating element 28 is secured pivotably and displaceably on the holder 32. Instead, both the holder 32 and the heating element 28 are connected to an interconnecting segment 66 and both appear to be rotating in unison. More specifically, as disclosed at col. 5, in pertinent part:

The two ends 70 and 72 of the electric heating element 28 extend through and are fastened to a bracket 74 and a bracket arm 76 extends outwardly from the bracket 74. A nipple 78 is formed on the arm 76 for the purpose of engaging detents in the bowl 12 as will hereinafter be described in greater detail. The interconnecting segment 66 of the adjusting rod 32 also extends through the bracket 74.

.... Also, in FIG. 4, the heating element ends 70 and 72 and the

adjusting rod 32 are shown extending through the bracket 74 with an aperture 84 disposed immediately above and centered with respect to the ends 70 and 72.

In FIG. 5 there is shown a heating element attachment bracket 86 which includes apertures 88 and 90 that are dimensioned to receive the ends 70 and 72 of the heating element. These heating element ends 70 and 72 are inserted through the apertures 88 and 90 and the bracket 86 is crimped to secure the heating elements therein. The bracket 86 also includes an aperture 92 that is spaced from the apertures 88 and 90 in the same manner as aperture 84 is spaced from the heating elements 70 and 72. In construction, the heating element ends 70 and 72 are inserted through apertures 88 and 90, the bracket 86 is crimped, and the ends 70 and 72 are inserted through bracket 74. Thus, the attachment bracket 86 is disposed immediately behind the bracket 74 as shown in FIG. 4, and the apertures 84 and 92 are aligned. A sheet metal screw is then threadably secured through apertures 84 and 92 to secure together the brackets 74 and 86.

... Referring to FIGS. 6 and 2, it will be appreciated that the bracket 74 will rotate in conjunction with the heating element 28 and the adjusting rod 32. In FIG. 6, the heating element ends 70 and 72 and the interconnecting section 66 of the adjusting rod 32 are shown going through the bracket 74. The attachment bracket 86 is shown securing the heating elements 70 and 72 to the bracket 74 by means of a screw 102.

As the heating element 28 and the adjusting rod 32 rotate, the attachment bracket 74 moves the nipple 78 in an arc, and detents 104, 106, 108 and 110 are formed in the bowl 12 to catch and resiliently hold the nipple 78 and bracket 74 in one of four selected positions. When the nipple 78 is in the detent 104, the heating element 24 is horizontal.

Accordingly, Applicants respectfully request that the rejection over claim 18 be withdrawn.

Claims 19-27

Claim 19 recites:

A central body that is structured to support foodstuffs arranged around the central body, the central body comprising at least one hollow space into which a cold medium is introduced and further

comprising inlet and outlet lines connected to at least one cooling element running substantially parallel in relation with a longitudinal axis of the central body and through which the cold medium flows from the inlet line and to the outlet line of the central body.

Applicants submit that Wallace does not show these features.

Instead, Wallace shows an internal heat exchanger for meat which includes a plurality of needles 11 connected to a manifold system. As shown in FIGS. 3 and 4, the needles 11 have an inner tube 18 and an outer tube 17. The needles 11 are each connected to a discharge and return manifold 9 and supply manifold 10. However, using the Examiner's interpretation that the needles 11 are the cooling element and the central body, it is clear that the cooling element needle does not receive coolant from the inlet and outlet lines of the central body needle. Instead, in Wallace, the medium always flows to each of the needles 11 through the supply manifold 10, itself.

Also, taking an alternative interpretation that the supply manifold 10 is the cooling element (or central body), it is also clear that none of the needles are substantially parallel supply manifold 10. Instead, the needles 11 of Wallace run perpendicular to the supply manifold 10. Thus, regardless of the interpretation of Wallace, it is clear that Wallace does not include all of the features of the claimed invention.

Dependent Claims 20-27

Claims 20-27 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on claim 19. Also, Applicants submit that these claims also include allowable subject matter on their own merits.

Claim 25

Claim 25 recites:

The central body as claimed in claim 19, wherein the at least one cooling element is coupled to the central body in a removable manner and is arranged at a radial spacing from the central body.

Applicants submit that Wallace does not show these features. Specifically, in Wallace, none of the needles are coupled to another needle. Instead, the needles 11 are coupled to the discharge and return manifold 9 and supply manifold 10. Also, there is no indication, whatsoever, that the needles 11 in Wallace are removable.

Accordingly, Applicants respectfully request that the rejection over claims 19-27 be withdrawn.

35 U.S.C. §103 Rejection

Claim 8 was rejected under 35 U.S.C. §103(a) for being unpatentable over Raman et al. and U.S. Patent No. 4,810,856. Claims 13-15 was rejected under 35 U.S.C. §103(a) for being unpatentable over Raman et al. and Huff. Claims 16 and 17 were rejected under 35 U.S.C. §103(a) over Raman in view of U.S. Patent No. 5,025,639¹ to Thomas. These rejections are respectfully traversed.

Claims 8 and 13-17 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on a distinguishable independent claim. Also, Applicants submit that these claims also include allowable subject matter on their own merits.

Claim 13

Claim 13 recites:

The rotating spit as claimed in claim 1, wherein the heating element is provided, at a lower end thereof, with a device by which it can be secured pivotably and displaceably on a holder.

The Examiner is of the opinion that Huff shows the features of the device which is secured pivotably and displaceably on a holder. Applicants submit that this is not accurate for the reasons discussed above. That is, the device (bracket 26) of Huff is spot welded to the U

¹ In this rejection, the Examiner only refers to the secondary reference as '639. Applicants are assuming that this secondary reference is U.S. Patent No. 5,025,639¹ to Thomas.

Appln. No.: 10/529,387

shaped holder 32. As such, it cannot be secured pivotably and displaceably on the holder 32. Also, the heating element 28 of Huff is not attached at a lower end to the bracket 26. As discussed above, the bracket 26 attaches to the heating element along a mid portion of the length. Also, as the bracket 26 is spot welded to the holder 32, it would seem that the rotation of the holder 32 would result in the same relative movement of both the heating element 28 and the bracket 26.

Claim 14

Claim 14 recites:

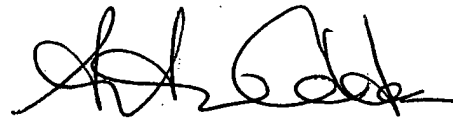
The rotating spit as claimed in claim 13, wherein the holder is U-shaped and the heating element is secured on one side with its lower end on an upper branch of the holder, the upper branch of the holder being arranged underneath the foodstuffs.

It appears that the Examiner is of the opinion that the holder is U-shaped and the heating element of Huff is secured on one side with its lower end on an upper branch of the holder. Applicants submit, though, that Huff shows that the holder 32 is connected to a bracket 26 which, in turn, is connect to the heating element 26. The heating element is attached at mid portions along a length thereof to the mid portions of the U shaped holder 32. the heating element is not attached with its lower side to an upper side of the holder 32.

CONCLUSION

Applicants appreciate the indication of allowable subject matter; however, in view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,
Can ÜMIT et al.



Andrew M. Calderon
Reg. No. 38,093

GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191